

Ms Laura Gomme
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By email to: laura.gomme@asx.com.au

Cc to: lachlan.pethick@asx.com.au

25 May 2023

Dear Laura

Aerison Group Ltd – ASX Aware Query

We refer to your letter of 18 May 2023 setting out a number of queries in respect of Aerison Group Ltd (**AE1** or **the Company**) and to your subsequent email of 24 May 2023 in response to which we advise as follows:

1. *In relation to the disclosure provided in the Preliminary Report under the heading 'A.3 Significant Events and Transactions' and Annual Report under the heading 'Note 1 Significant Items':*

1.1 *Has AE1 previously announced to the market, the contracts to which variations have been agreed and which are referred to in section A3 of the Preliminary Report and Note 1 of the Annual Report? If so, please provide details.*

The key contract in question, being a construction contract with BHP Nickel West Pty Ltd in relation to its powder leach nickel sulphate project (**BHP Contract**) was entered into in February 2019, over two years prior to the Company's admission to the Official List of ASX. A comprehensive summary of the terms and conditions of the BHP Contract is contained in section 13.4 of the Company's Replacement Prospectus of 8 July 2021. Section A.3 refers to plural 'contracts' however we note that the variations to the other contract referred to in that section were not material in isolation.

1.2 *Does AE1 consider that the contracts which have been varied, referred to in section A.3 of the Preliminary Report and Note 1 of the Annual Report, are material and are such that a reasonable person would expect to have a material effect on the price or value of its securities?*

Yes.

1.3 *If the answer to the above question is "no", please advise the basis for that view.*

Not applicable.

1.4 *Does AE1 consider that the variations referred to in section A.3 of the Preliminary Report and Note 1 of the Annual Report are agreements that a reasonable person would expect to have a material effect on the price or value of its securities?*

The Company considers the variations to the BHP Contract referred to in section A.3 of the Preliminary Report and Note 1 of the Annual Report to be agreements that a reasonable

person would expect to have a material effect on the price or value of its securities and disclosed information in the Preliminary Report and Annual Report on that basis.

1.5 *If the answer to the above question is “no”, please advise the basis for that view.*

Not applicable.

1.6 *Please confirm:*

1.6.1 *The value of the contracts which are referred to in section A.3 of the Preliminary Report and Note 1 of the Annual Report.*

\$86.9M at the date of this letter, of this amount \$71.3M pertains to the BHP Contract and \$15.6M to another varied contract which is not material in isolation. Due to the nature of Aerison’s business and the services provided by it, the scope and in turn the value of contracts can vary significantly during their term, as a result of which a contract which was not considered material at the time it was entered into may later become material.

1.6.2 *The value of the variations to the contracts which are referred to in section A.3 of the Preliminary Report and Note 1 of the Annual Report.*

A Deed of Settlement and Release of \$15.9M, excluding GST, was executed in respect of the BHP Contract on or about 3 March 2023.

1.7 *If AE1 first became aware of information provided in section A.3 of the Preliminary Report and Note 1 of the Annual Report before the release of the Preliminary Report, did AE1 make any announcement prior to the date which the information was disclosed? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe AE1 was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps AE1 took to ensure that the information was released promptly and without delay.*

The Company did not reach an in-principle agreement in respect of the variation to the BHP Contract until the date of the Company’s Preliminary Financial Report (28 February 2023) as and such was not in a position to make a release to the market before that time. Upon reaching that in-principle agreement on 28 February 2023, the financial statements were amended to reflect the receivable created by that in-principle agreement, with the full adjustment being reflected in the financial statements as a reversal to revenue.

2. *In relation to the disclosure in the Announcement under the heading ‘A.4 Significant Judgements and Estimates’:*

2.1 *Has AE1 previously announced to the market, the EPC contract referred to in section A.4 of the Announcement? If so, please provide details.*

The entry into the EPC contract in question (being a contract with Roy Hill Iron Ore Pty Ltd for the construction of its saline water reverse osmosis plant) (**Roy Hill Contract**) was included in the Company’s release of 5 October 2021 (New Contracts Secured and Increased FY2022 Revenue Guidance). Further information concerning the Roy Hill Contract was contained in the Company’s Full Year Statutory Accounts and Full Year Results Presentation, both of 28 February 2022, and its release of 3 May 2022 (Strong Start to 2022 with \$49.4M in Revenue in Q1 CY 2022).

The material terms of the Roy Hill Contract are as follows:

- Amended Form of AS4902-2000 “Design and Construct Contract”
- Two separable portions with liquidated damages for each separable portion.
- Security requirement for performance and maintenance is two 5% guarantees.
- Contract provided for additional security for unfixed plant and materials.
- COVID-19 was a qualifying cause of delay giving rise to extension of times.
- Defects liability period of 24 months.
- Variation mechanism which catered for:
 1. increases, decreases and omissions of any part of the work under contract;
 2. changes in character or quality of the work under contract;
 3. changes in levels, lines, positions or dimensions of any part of the work under contract;
 4. performance of additional works; and
 5. demolition or removal of material or work no longer required by the client.
- The contract includes both a termination provision for default (following a process) and a termination for convenience provision.

2.2 *Does AE1 consider the award of the EPC contract to be a contract that a reasonable person would expect to have a material effect on the price or value of its securities?*

Yes.

2.3 *If the answer to the above question is ‘no’, please advise the basis for that view.*

Not applicable.

2.4 *Does AE1 consider that the contract modification referred to in section 2.4 of the Announcement to be information that a reasonable person would expect to have a material effect on the price of its securities?*

Yes.

2.5 *If the answer to the above question is ‘no’, please advise the basis for that view.*

Not applicable.

2.6 *Please confirm:*

2.6.1 *The value of the EPC contract which is referred to in section A.4 of the Preliminary Report.*

\$76.2M at the date of this letter. Due to the nature of Aerison’s business and the services provided by it, the scope and in turn the value of contracts can vary dramatically during their term, as a result of which a contract which was not considered material at the time it was entered into may later become material. In the Company’s Full Year Results Presentation of 28 February 2022, it was noted in respect of the Roy Hill Contract that “*the breadth of contracted works for the Roy Hill Saline Water Reverse Osmosis Plant.....increased markedly in December 2021*”.

2.6.2 *The value of the contract modifications which are referred to in section A.4 of the Preliminary Report.*

On 12 May 2023, the Company announced that \$47.5M of variations were submitted to Roy Hill Iron Ore Pty Ltd in respect of the Roy Hill Contract. Negotiations in

respect of the modifications are ongoing at the date of this letter and the Company is progressing the valuation of additional variations to be submitted to Roy Hill Iron Ore Pty Ltd.

- 2.7 *If AE1 first became aware of the information provided in section A.4 of the Preliminary Report before the release of the Preliminary Report, did AE1 make any announcement prior to the release of the Preliminary Report which disclosed the information? If so, please provide details.*

Negotiations in respect of the modifications were ongoing as at the date of the Preliminary Financial Report, and remain ongoing as at the date of this letter as referred to in the Company's request for a trading halt on 4 May 2023 and its requests for voluntary suspension on 8 May 2023 and 16 May 2023. As such the Company is not yet in a position to make a release concerning those negotiations, and remains subject to voluntary suspension pending it doing so.

3. *Please confirm that AE1 is complying with the Listing Rules and, in particular, Listing Rule 3.1.*

We confirm that AE1 is complying with its obligations under the Listing Rules and in particular its disclosure obligations under Listing Rule 3.1. As at the date of this letter, the securities of the Company are subject to a period of voluntary suspension instituted at the Company's request to enable it to manage its disclosure obligations in respect of certain matters as set out in the Company's letters to the ASX of 4 May 2023, 8 May 2023 and 16 May 2023, which the Board of Directors continues to assess on a regular basis.

4. *Please confirm that AE1's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of AE1 with delegated authority from the board to respond to ASX on disclosure matters.*

We confirm that AE1's answers to the questions above have been approved by the Company's Board of Directors.

Yours sincerely



Katherine Garvey
Company Secretary
Aerison Group Ltd



18 May 2023

Reference: 71056

Ms Katherine Garvey
Level 1, 56 Ord Street
West Perth
WA 6005

By email: kgarvey@aerison.com

Dear Ms Garvey

Aerison Group Ltd('AE1'): General – Aware Query

ASX refers to the following:

- A. AE1's announcement entitled "Preliminary Financial Report Incorporating Appendix 4E" lodged on the ASX Market Announcements Platform ('MAP') on 28 February 2023 (the 'Preliminary Report'), disclosing, amongst other things, the following information:

A.3 Significant Events and Transactions

Significant, non-recurring items

Subsequent to 31 December 2022, the Group reached agreements with customers for variations and claims associated with scope changes, extension of time and delay and disruption. In order to expedite an improvement in working capital, the Group accepted lower settlement amounts than what would otherwise have been accepted. The impact is reflected as reversals to revenue in profit of loss for the year for the year ended 31 December 2022.

...

A.4 Significant Judgements and Estimates

Contract modifications

In a prior period, the Group entered into a tender period for early contractor involvement (ECI) for the preliminary design on a plant. On completion of the ECI, the Group was awarded an EPC contract for the design and construction of the plant.

In consultation with the customer, hazard and operability studies, operational and engineering improvements were identified post ECI. Engineering changes from the initial ECI process to the actual plant design were approved by the customer. Items of significant change include, but are not limited to:

- *Additional earth works to cater for a 100-year flood event*
- *Elimination of all underground piping services*
- *Upgrade valve specifications to accommodate water quality*
- *Additional storage facilities*
- *Modifications to existing facilities to achieve water quantity for commissioning*
- *Increased sizing of pumps*
- *Additional switchrooms and associated infrastructure, such as concrete works*

These changes significantly increased the complexity and sequencing of construction activities. Materials and labour required to execute works under construction also increased. The Group is in the process of agreeing contract modifications with the customer arising from these variations. The corresponding change in price has not yet been finalised but is expected prior to practical completion.

The finalisation of the contract modifications may materially impact the financial performance of the Group.

- B. AE1's announcement entitled "Full Year Statutory Accounts" lodged on MAP on 31 March 2023 (the 'Annual Report'), disclosing, amongst other things, the following information:

Significant items

Subsequent to 31 December 2022, the Group reached commercial settlements with the customers for variations and claims associated with scope changes, extension of time and delay disruption. The impact is reflected as reversals to revenue in profit or loss for the year ended 31 December 2022

- C. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.

- D. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:

"an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information."

- E. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

"3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:

3.1A.1 One or more of the following applies:

- It would be a breach of a law to disclose the information;*
- The information concerns an incomplete proposal or negotiation;*
- The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- The information is generated for the internal management purposes of the entity; or*
- The information is a trade secret; and*

3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and

3.1A.3 A reasonable person would not expect the information to be disclosed."

- F. ASX's policy position on the concept of "confidentiality", which is detailed in section 5.8 of Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

"Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact

disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule.”

Request for information

Having regard to the above, ASX asks AE1 to respond separately to each of the following questions and requests for information:

1. In relation to the disclosure provided in the Preliminary Report under the heading **‘A.3 Significant Events and Transactions’** and Annual Report under the heading **‘Note 1 Significant Items’**:
 - 1.1 Has AE1 previously announced to the market, the contracts to which variations have been agreed and which are referred to in section A3 of the Preliminary Report and Note 1 of the Annual Report? If so, please provide details.
 - 1.2 Does AE1 consider that the contracts which have been varied, referred to in section A.3 of the Preliminary Report and Note 1 of the Annual Report are material and are such that a reasonable person would expect to have a material effect on the price or value of its securities?
 - 1.3 If the answer to the above question is “no”, please advise the basis for that view.
 - 1.4 Does AE1 consider that the variations referred to in section A.3 of the Preliminary Report and Note 1 of the Annual Report are agreements that a reasonable person would expect to have a material effect on the price or value of its securities?
 - 1.5 If the answer to the above question is “no”, please advise the basis for that view.
 - 1.6 Please confirm:
 - 1.6.1 the value of the contracts which are referred to in section A.3 of the Preliminary Report and Note 1 of the Annual Report
 - 1.6.2 the value of the variations to the contracts which are referred to section A.3 of the Preliminary Report and Note 1 of the Annual Report
 - 1.7 If AE1 first became aware of information provided in section A.3 of the Preliminary Report and Note 1 of the Annual Report before the release of the Preliminary Report and Annual Report, did AE1 make any announcement prior to date which the information was disclosed? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe AE1 was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps AE1 took to ensure that the information was released promptly and without delay.
2. In relation to the disclosure in the Announcement under the heading **‘A.4 Significant Judgements and Estimates’**:
 - 2.1 Has AE1 previously announced to the market, the EPC contract referred to in section A.4 of the Announcement? If so, please provide details.
 - 2.2 Does AE1 consider that the award of the EPC contract to be a contract that a reasonable person would expect to have a material effect on the price or value of its securities?
 - 2.3 If the answer to the above question is “no”, please advise the basis for that view.
 - 2.4 Does AE1 consider that the contract modification referred to in section A.4 of the Announcement to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
 - 2.5 If the answer to the above question is “no”, please advise the basis for that view.

2.6 Please confirm:

2.6.1 the value of the EPC contract which is referred to in section A.4 of the Preliminary Report

2.6.2 the value of the contract modification which are referred to section A.4 of the Preliminary Report.

2.7 If AE1 first became aware of the information provided in section A.4 of the Preliminary Report before the release of the Preliminary Report, did AE1 make any announcement prior to the release of the Preliminary Report which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe AE1 was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps AE1 took to ensure that the information was released promptly and without delay.

3. Please confirm that AE1 is complying with the Listing Rules and, in particular, Listing Rule 3.1.

4. Please confirm that AE1's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of AE1 with delegated authority from the board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **12 PM AWST Wednesday, 24 May 2023**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, AE1's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require AE1 to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsCompliancePerth@asx.com.au**. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Trading halt

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in AE1's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in AE1's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to AE1's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that AE1's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Release of correspondence between ASX and entity

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A.

Questions

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

Laura Gomme
Senior Adviser, Listings Compliance